

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Peter D. Weinstein, § No. 1:23-CV-01534-DAE
§
Plaintiff, §
§
vs. §
§
Jennifer S. Madison, §
§
Defendant. §
§
§

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is a Report and Recommendation (“Recommendation”) filed by Magistrate Susan Hightower. (Dkt. # 31.) Pursuant to Local Rule CV-7(h), the Court finds this matter suitable for disposition without a hearing. After reviewing the Recommendation and the information contained in the record, the Court **ADOPTS** the Recommendation.

BACKGROUND

On August 30, 2024 Defendant Jennifer Madison who is proceeding *pro se*, filed a Motion to Dismiss Plaintiff Peter D. Weinstein’s claims for libel and defamation, arguing that Plaintiff had failed to turn over evidence pursuant to Brady v. Maryland, 373 U.S. 83, 87 (1963). (Dkt. # 23.)

The Motion to Dismiss was referred to Magistrate Judge Susan Hightower on September 4, 2024, along with several other non-dispositive motions by Defendant. On September 12, 2024, Judge Hightower ordered the parties, or counsel appearing on their behalf, to appear for a hearing by Zoom on October 7, 2024 to address all pending motions. (Dkt. # 26.) Plaintiff appeared, but Defendant did not. Judge Hightower issued her Report and Recommendation on October 7, 2024, along with her Order on the pending non-dispositive motions. (Dkt. # 31.) None of the parties filed objections.

DISCUSSION

Where, as here, none of the parties objected to the Magistrate Judge's findings, the Court reviews the Recommendation for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the Court adopts the Magistrate Judge's Recommendation. The Court finds that Judge Hightower's analysis is reasonable and absent of clear error.

Because Defendant's Motion to Dismiss argued only that the Plaintiff had violated the Brady doctrine, the Court determines that Judge Hightower's conclusion and recommendation is neither clearly erroneous nor contrary to law. The Brady evidentiary rule, which applies to prosecutors in criminal cases, is not a valid basis to dismiss this civil case. Brady 373 U.S. at 87. The Court therefore

adopts Judge Hightower's recommendation and **DENIES** Defendant's Motion to Dismiss. (Dkt. # 23.)

CONCLUSION

For the reasons given, the Court **ADOPTS** U.S. Magistrate Judge Susan Hightower's Report and Recommendation (Dkt. # 31) and **DENIES** Defendant's Motion to Dismiss. (Dkt. # 23.)

IT IS SO ORDERED.

DATED: October 25, 2024



Hon. David Alan Ezra
Senior U.S. District Judge